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REED, and COASTAL PROTECTION
RANGERS, INC.

UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA, WESTERN DIVISION

CORY SPENCER, an individual;
DIANA MILENA REED, an
individual; and COASTAL
PROTECTION RANGERS, INC., a
California non-profit public benefit
corporation,

Plaintiffs,

CASE NO. 2:16-cv-02129-SJO (RAOx)

**JOINT STIPULATION OF PARTIES
RE: PLAINTIFFS' MOTION TO
COMPEL PRODUCTION OF
DOCUMENTS BY DEFENDANT
BLAKEMAN**

Hearing Date: January 25, 2017
Hearing Time: 10:00 AM

Case No. 2:16-cv-02129-SJO (RAOx)

JOINT STIPULATION OF PARTIES RE: PLAINTIFFS' MOTION TO COMPEL DEMAND FOR PRODUCTION

1
2 v.

3 LUNADA BAY BOYS; THE
4 INDIVIDUAL MEMBERS OF THE
5 LUNADA BAY BOYS, including but
6 not limited to SANG LEE, BRANT
7 BLAKEMAN, ALAN JOHNSTON
8 AKA JALIAN JOHNSTON,
9 MICHAEL RAE PAPAYANS,
10 ANGELO FERRARA, FRANK
11 FERRARA, CHARLIE FERRARA,
12 and N. F.; CITY OF PALOS
13 VERDES ESTATES; CHIEF OF
14 POLICE JEFF KEPLEY, in his
15 representative capacity; and DOES
16 1-10,

17 Defendants.

Location: Courtroom F, 9th Floor
312 N. Spring Street
Los Angeles, CA 90012

Discovery Cutoff: August 7, 2017
Pretrial Conference: October 23, 2017
Trial: November 7, 2017

Complaint Filed: March 29, 2016

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I. INTRODUCTION

A. Plaintiffs' Introductory Statement

Plaintiffs brought this lawsuit to stop the Lunada Bay Boys gang and the City of Palos Verdes Estates from illegally excluding "outsiders" who wish to access Lunada Bay. The specifics of their activities are alleged in the complaint and are not repeated here. But, Plaintiffs allege this unlawful exclusion has been ongoing since the 1970s. This discovery dispute involves Defendant Blakeman's refusal to produce videos and photographs – which he acknowledged existed during his deposition – in response to Plaintiff Diana Milena Reed's discovery requests.¹

As is relevant here, Plaintiffs allege that Defendants conspire to "intimidate visiting beachgoers with threats and taunts, by taking photos and video of beachgoers." (**Exh. 1-b**, Compl. ¶ 18.) On February 13, 2016, Defendants Blakeman and Johnston were involved in the assault of Plaintiff Reed, which Blakeman filmed. (*Id.* at ¶ 25.) Ms. Reed testified at her deposition that Mr. Blakeman "was always with a video camera . . . always filming me and – in ways that were intimidating to me." (**Exh. 1-e**, at 298:3-5.) Blakeman testified that the "majority" of his photos and videos are of Lunada Bay, including surfing and people. (**Exh. 1-f**, at 25:6-10, 24.)

¹ Mr. Blakeman has not complied with his obligation to produce other documents in response to Plaintiff Reed's Requests for Production of Documents, including emails, phone records, or text messages; however this motion focuses only on the videos and photographs identified during his deposition. Astonishingly, while he stores many memory cards full of video, Mr. Blakeman said he does not have a computer, iPad or similar device. He claimed not to move the video onto a computer or other device. And he said that he does not use email. He also had difficulty remembering his cell phone number because the City of Palos Verdes Estates issued him his cell phone. At deposition, his attorney instructed him not to provide his wife's email address based on "privacy." Plaintiffs will seek further court intervention if necessary and appropriate as to these other materials at a later date.

1 Ms. Reed's first set of requests for documents to Blakeman sought
 2 videos and photographs of Lunada Bay, among other things. (**Exh. 1-c.**)
 3 Blakeman's response stated a production would be forthcoming. (**Exh. 1-d.**)
 4 Mr. Blakeman was subsequently deposed on November 21, 2016. (**Exh. 1-**
 5 **f.**) He testified that he has approximately 10 memory cards containing video
 6 footage from the last 4 years. (*Id.*, 17:12-24; 18:7-23; 26:10-11.) The
 7 majority of footage is of Lunada Bay. (*Id.*, 25:3-10, 25; 26:1-2.) He gave
 8 these memory cards to his lawyer, John Worgul. (*Id.*, 78:6.)

9 To date, Plaintiffs have not received any videos or photos in response
 10 to their discovery requests. (See **Exh. 1-i.**)

11 Attempts to Meet and Confer

12 Plaintiffs' counsel initiated a meet and confer on November 22, 2016,
 13 identifying the deficiencies of Mr. Blakeman's responses and requesting
 14 production of responsive materials. (**Exh. 1-g.**) Mr. Blakeman's counsel
 15 responded that he would "produce responsive videos previously identified on
 16 Monday, Nov. 28." (**Exh. 1-h.**) Blakeman later served a small production –
 17 insurance policies and 4 short videos – all of which had been identified in his
 18 August 22, 2016 initial disclosures but not previously produced. (**Exh. 1-i.**)

19 On December 8, 2016, Plaintiffs' counsel emailed Mr. Blakeman's
 20 attorneys to demand production of the responsive information. (**Exh. 1-j.**)
 21 Instead of producing documents, on December 12, 2016, Mr. Cooper
 22 requested an extension until close of business the following day to provide a
 23 detailed response. (**Exh. 1-k.**) Mr. Cooper also requested an extension
 24 until the end of the week to "produce any additional items, if in fact we
 25 indicate we are inclined to do so." (*Id.*) Plaintiffs' counsel agreed to await
 26 Mr. Cooper's detailed response but requested production of the memory
 27 cards no later than noon on December 16, 2016. (**Exh. 1-m.**)

28 On December 13, 2016, Mr. Cooper responded by objecting to the

1 requests as overbroad and proposed producing videos of "the bluff, cliffs,
2 and surf area of Lunada Bay adjacent to Paseo Del Mar" going back 3 years
3 from the date the complaint was filed. (**Exh. 1-n.**) Mr. Cooper agreed to
4 produce copies of video clips but not the memory cards, and further stated
5 that this production would occur *only if* Plaintiffs agreed that this limited
6 production resolved all issues. If not, "*then no such production will be made*
7 *. . .*" (*Id.*, emphasis added.)

8 Plaintiffs' counsel rejected Mr. Cooper's proposal and reiterated the
9 relevance of the photos and videos, explaining that because Defendants'
10 unlawful conduct has been ongoing since the 1970s, limiting a production to
11 the past 3 years was unacceptable. (**Exh. 1-o.**) Notably, Blakeman's co-
12 defendant, Sang Lee, has admitted that the Bay Boys' exclusionary tactics
13 date to the 1970s and that he was "brought up this way by u [sic] guys (the
14 older boys[])." (**Exh. 1-l.**) Plaintiffs' counsel did agree to narrow the
15 geographic scope of the requests to include "footage of Paseo Del Mar, the
16 bluffs above Lunada Bay, the trails from the bluffs to the beach, the beach,
17 the rock fort, and/or the water at Luanda Bay," and proposed other limiting
18 parameters for photos and video that include Mr. Blakeman's family and/or
19 friends. (**Exh. 1-o.**)

20 On December 14, 2016, Mr. Cooper restated his position and indicated
21 that he did not believe that Plaintiffs' extensive meet and confer efforts
22 complied with Local Rule 37-1. (**Exh. 1-p.**) Plaintiffs' counsel replied that
23 she was available for a telephonic conference if he believed one would be
24 helpful and reminded Mr. Cooper that on November 22, 2016, Plaintiffs had
25 requested Blakeman's counsel's availability for a phone call to no avail.
26 (**Exh. 1-q.**) Mr. Cooper never followed up to request a phone call.

27 Mr. Blakeman did not produce any materials on December 16, 2016,
28 despite his counsel's initial offer to do so. (**Decl. Otten, ¶ 20.**)

B. Defendant Brant Blakeman's Introductory Statement

Defendant Brant Blakeman is a local resident of Palos Verdes Estates who has surfed the bay near his residence, Lunada Bay, for much of his life. Those are the only allegations made against him in this case that are true. Mr. Blakeman is a well-respected member of the community, who has been a neighborhood watch captain and is a volunteer first responder for the city who has a cell phone provided by the city for that purpose. He is not a “criminal gang member” as alleged in this fallacious lawsuit and has no criminal record, nor any history of assault, battery nor any of the “misconduct dating back to the 1970’s” that is continuously mouthed by plaintiffs but never supported with evidence as to this defendant.

Plaintiffs in this discovery dispute relating to their production requests make the strange and knowingly untrue statement that Blakeman has not produced any videos or documents in response to their claims. Defendant in fact produced the very videos and documents that it identified in its responses on October 14, 2016. Plaintiff additionally seeks further responses to certain vastly overbroad requests, and the attempts by defense counsel to narrow the requests at issue have been to no avail. Plaintiffs’ counsel is simply unwilling to compromise, even though plaintiffs meet-and-confer communications (See Exhibits 2 and 3 and Dieffenbach declaration paragraphs 2 and 3) tacitly admit during the meet-and-confer process that a request for “all videos of Lunada Bay” is, at a minimum, geographically overbroad, and also temporally overbroad given the maximum three-year statute of limitations. Plaintiffs’ counsel also seeks repeatedly to compel documents that Mr. Blakeman has already identified and produced (e.g., the videos responsive to request numbers 1 and 2)—just what further response is being sought is difficult to understand and remains unspecified by Plaintiffs’ counsel. Plaintiffs also seek to compel documents that Blakeman

1 has stated he does not possess nor has he ever possessed--“all documents
2 showing efforts to keep people from surfing the bay.” (Request No. 9).

3 The time frames for Requests 12, 13, 39 and 40 (those that seek
4 photographs and videos of Lunada Bay and people surfing Lunada Bay) are
5 overbroad. The most senior of the various statutes of limitations that appear
6 to apply to the causes of actions alleged are three years. (See *California*
7 *Code of Civil Procedure* Sections 335.1 and 338.) Notably the only events
8 alleged against Mr. Blakeman relate to events that occurred in 2016. Over
9 breadth objections to discovery have been sustained where they are beyond
10 the relevant range of events related to the issues in the lawsuit. (See
11 *Rogers v. Giurbino*, 288 F.R.D. 469, 481 (S.D. Cal. 2012); *Perez v. Cate*,
12 No. C 10–3730 JSW (PR), 2012 U.S. Dist. LEXIS 49706, at *2 (N.D.Cal.
13 Apr. 9, 2012); *Manriquez v. Huchins*, No. 1:09–cv–00456–OWW–SMS PC,
14 2011 WL 3290165, at *4–6, (E.D.Cal. July 27, 2011).)

15 The geographic locations for Request 12, 13, 39, 40 that the use term
16 Lunada Bay are overbroad. The location of Lunada Bay is also overbroad as
17 to the location. Lunada Bay is both a neighborhood and geographical
18 location. This is undeniably so, but Plaintiffs’ refusal to delimit the scope of
19 “Lunada Bay” emphasizes their intention to waste time and resources in a
20 quest for irrelevant information. Mr. Blakeman has lived in Lunada Bay
21 area for nearly his entire life. To ask for photographs and videos from him
22 that would encompass his neighborhood would require seeking a lifetime’s
23 worth of photographs and videos. It would arguably encompass family
24 events, private events, and invade his right to privacy, his first amendment
25 rights and other third parties’ rights. This is an essential problem with
26 plaintiff’s failing to articulate a time frame and location that is “Lunada Bay.”

27 As stated, defendant offered to compromise on the overbroad request
28 for all videos of Lunada Bay, footage taken at Mr. Blakeman’s leisure over

1 several years—by limiting the response to a specified geographical area and
2 to the relevant three year time frame. (See Exhibit 2, emails from Robert
3 Cooper to Samantha Wolfe dated through December 14, 2016). Plaintiffs
4 refused this compromise.

5 Furthermore, Plaintiffs' counsel failed to comply with Rule 37 by not
6 articulating any legal basis for the further responses they seek. Plaintiffs are
7 required to have a meeting within 10 days of a request. No such meeting
8 has been expressly requested under the rule (Counsel needed to merely cite
9 to the rule and ask for the conference pursuant to that rule) nor have they
10 provided any legal authority to address their position so that the rule can be
11 applied properly or the scope of the discovery order to be sought can be
12 determined. The only legal authority Plaintiffs have provided for their
13 position is one case (*In re Legato Systems* 204 FRD 167) for the
14 proposition that a cell phone carrier is within the control of person to produce
15 records. This clearly does not address the objections that have been made.
16 The correspondence from Hanson Bridget on 11/22 (letter-See Exhibit 3)
17 12/8 (email –part of Exhibit 2) and 12/13 (2 emails-also part of Exhibit 2)
18 (Declaration of Dieffenbach, paragraphs 2 and 3) do not contain any legal
19 authority, a direct contradiction of Rule 37-1's requirement that the "moving
20 party's letter shall identify each issue and/or discovery request in dispute,
21 shall state briefly with respect to each such issue/request the moving party's
22 position (and provide any legal authority which the moving party believes is
23 dispositive of the dispute as to that issue/request), and specify the terms of
24 the discovery order to be sought."

25 Plaintiffs' failure to meet the prerequisite requirements for such a
26 motion render the entire motion unfounded. The motion should be denied
27 as both procedurally and substantively deficient.

28 ///

1 **II. DISPUTED DISCOVERY**

2 Plaintiffs' document requests defined the term "DOCUMENTS" as
3 follows: "any writing of any kind, including originals and all no[n] identical
4 copies (whether different from the originals by reason of any notation made
5 on such copies or otherwise), including without limitation correspondence,
6 text messages, electronic mail (e-mail), Facebook messages, posts or
7 comments on Facebook or other social media (e.g., Nextdoor, Patch,
8 Instagram, Snapchat, Vine, and YouTube), photographs, videos,
9 memoranda, notes, calendars, diaries, logs, statistics, letters, telegrams,
10 minutes, contracts, reports, studies, checks, invoices, statements, receipts,
11 returns, warranties, guaranties, summaries, pamphlets, books,
12 prospectuses, interoffice and intraoffice communications, offers, notations of
13 any sort of conversation, telephone calls, meetings or other
14 communications, bulletins, magazines, publications, printed matter,
15 photographs, computer printouts, teletypes, telefaxes, invoices, worksheets
16 and all drafts, alterations, modifications, changes and amendments of any of
17 the foregoing, tapes, tape recordings, transcripts, graphic or aural records of
18 representations of any kind, and electronic, mechanical or electric records or
19 representations of any kind, or which you have knowledge or which are now
20 or were formally in your actual or constructive possession, custody or
21 control. Each draft, annotated, or otherwise non-identical copy is a separate
22 DOCUMENT within the meaning of this term. DOCUMENTS shall also
23 include any removable sticky notes, flags, or other attachments affixed to
24 any of the foregoing, as well as the files, folder tabs, and labels appended to
25 or containing any documents. DOCUMENTS expressly include all
26 ELECTRONICALLY STORED INFORMATION." (**Exh. 1-c.**)

27 ///

28

1 **DEMAND NO. 1:**

2 Any and all DOCUMENTS REFERRING or RELATED TO any
3 PLAINTIFF.

4 **Defendant's Response:**

5 Objection: This request is overly broad and calls for production of
6 information which is neither relevant nor reasonably calculated to lead to
7 discoverable evidence. Without waiving these objections, after a reasonable
8 search and diligent inquiry, Defendant is not in possession of any
9 documents responsive to this request other than videos referred to in
10 response to Demand No. 3.

11 **Plaintiffs' Argument:**

12 The rules of discovery are to be broadly and liberally construed so as
13 to permit the discovery of any information which is relevant and is
14 reasonably calculated to lead to the discovery of admissible evidence. Fed.
15 R. Civ. P. 26(b)(2); *Hickman v. Taylor*, 329 U.S. 495, 507 (1947). Rule 26
16 has been broadly construed to "encompass any matter that bears on, or that
17 reasonably could lead to other matter that could bear on, any issue that is or
18 may be in the case." *Oppenheimer Fund, Inc. v. Sanders*, 437 U.S. 340,
19 351 (citing *Hickman*, 329 U.S. at 501).

20 Rule 34(b)(1)(A) of the Federal Rules of Civil Procedure requires a
21 request for production to describe an item "with reasonable particularity,"
22 which this request does. Plaintiffs' counsel has also agreed to narrow the
23 geographic scope of this request. (See **Exh. 1-o.**) Moreover, there are only
24 two individual named plaintiffs in this matter. Certainly, footage of either
25 plaintiff would be relevant to their allegations that, among other things,
26 Defendants photograph and video "outsiders" in an effort to intimidate and
27 harass them. Further, footage of the plaintiffs will help identify witnesses,
28 victims, and potential aggressors who have been involved with or affected

1 by the illegal conduct that has taken place at Lunada Bay.

2 Mr. Blakeman has in his possession many years' worth of valuable
3 footage of Lunada Bay, as he testified at his deposition. Indeed, as recently
4 as November 10, 2016, Plaintiffs' counsel witnessed Mr. Blakeman
5 recording video footage at the bluff above Lunada Bay. **(Decl. Otten, ¶ 7.)**

6 To date, Mr. Blakeman has only produced four short video clips which
7 were identified in his August 22, 2016 initial disclosures. This production
8 represents a small fraction of the footage of Lunada Bay that Mr. Blakeman
9 admitted to recording over the years. The production of this video footage
10 and related photos is relevant to the allegations of the instant lawsuit and is
11 critical to Plaintiffs' impending motion for class certification.

12 Finally, to the extent Mr. Blakeman seeks to limit any production of
13 responsive materials to the past 3 years, any such limitation would be
14 improper. The continuing violation doctrine allows courts to consider
15 allegations that occurred before the limitations period if such conduct is
16 "sufficiently related" to the conduct occurring within the limitations period, so
17 long as the incidents are not "isolated, sporadic, or discrete." *White v.*
18 *California Community Colleges*, 2008 WL 4793670 at *9 (C.D. Cal. Nov. 3,
19 2008). Indeed, a "'continuing violation is occasioned by continual unlawful
20 acts, not by continual ill effects from an original violation.'" *Lopez v. City of*
21 *Santa Ana*, 2015 WL 5923539 at *1 (C.D. Cal. Oct. 8, 2015) (*quoting Ward*
22 *v. Caulk*, 650 F.2d 1144, 1147 (9th Cir. 1981)).

23 Here, Defendants' unlawful misconduct began in the 1970s and the
24 Defendants have been engaged in an ongoing criminal conspiracy since that
25 time. A 2011 email from Sang Lee to a number of individuals confirms as
26 much:

27 i [sic] might not have surfed here when u [sic] guys
28 were ruling the place in the 70's but my feelings n

1 [sic] love for our home runs DEEP INSIDE MY
2 HEART . . . i [sic] just want to keep our home the way
it should be kept (nice n [sic] clean with no takers)."

3 (**Exh. 1-I**, emphasis in original.) Further, during deposition, Mr. Blakeman
4 indicated that he has known many of the older police officers for a long time
5 because he went to school with both them and the persons Plaintiffs have
6 identified as Bay Boys – indeed, he has known some of the officers since at
7 least high school. Given Defendants' ongoing unlawful conspiracy, Plaintiffs'
8 claims and allegations that predate any applicable statute of limitations are
9 therefore not time-barred. Indeed, the cumulative violations and
10 conspiratorial acts by the Lunada Bay Boys, including the individual
11 Defendants, over the past 40 years is the precise conduct that precipitated
12 this lawsuit. In the alternative, even if certain incidents involving Defendants'
13 criminal conduct is time-barred, evidence of such incidents would
14 nonetheless be relevant "to establish motive and to put [Plaintiffs'] timely-
15 filed claims in context." *Carpinteria Valley Farms, Ltd. v. County of Santa*
16 *Barbara*, 344 F.3d 822, 829 (9th Cir. 2003). Video footage and photographs
17 of Lunada Bay dating back to the 1970s is therefore relevant to Plaintiffs'
18 claims in this suit and is similarly discoverable.

19 Defendant's Argument:

20 Plaintiffs' references to unauthenticated hearsay documents and
21 misconstrued case law do not support their position here. The *Lopez* case
22 stands for the rule that there is no continuing violation, only separate
23 discrete violations with their own separate limitations periods. Plaintiffs have
24 referenced ONE event, a videotaping at the bluff, in 2016, as the SOLE
25 instance of anything involving Mr. Blakeman. There is no other specific
26 discrete act or event Plaintiffs reference involving Mr. Blakeman; there is no
27 "continuing violation" as to Mr. Blakeman justifying any extension of the
28 limitation period to more than three years prior to 2016, and no basis for

1 extending discovery back decades. The *Carpenteria* case relates to
2 government action in an eminent domain case where the Plaintiffs had to
3 show an intent by the Government to deprive them of rights; here, again that
4 involved a series of discrete events by the same Defendant, and here again
5 a single discrete 2016 event of simply videotaping the beach by Mr.
6 Blakeman is not evidence of any other event as to Mr. Blakeman. Plaintiffs
7 would have the court ignore the fact that there is no entity they conjure up as
8 the “Bay Boys” and no evidence that one ever existed other than in Plaintiffs’
9 unsupported pleadings.

10 References to Plaintiffs’ counsel’s “astonishment”, to an
11 unauthenticated reference to a statement purportedly by “Mr. Blakeman’s
12 Co-defendant” Sang Lee, and to assertions that events have been “ongoing”
13 “since the 1970’s” without any evidentiary support to either specify the
14 events or to connect them to Mr. Blakeman except through innuendo are the
15 broad brush transparent mere allegations which Plaintiffs’ entire claim has
16 been based upon. They are not support for this case or for Plaintiffs’ motion.

17 Mr. Blakeman objects to the unauthenticated hearsay assertions of
18 purported fact made in the Otten declaration as without foundation and
19 irrelevant and submits the declaration should be stricken as meaningless
20 surplussage.

21 Generally, if the responding party objects to a discovery request, the
22 party moving to compel bears the burden of demonstrating why the
23 objections are not justified. *E.g.*, *Grabek v. Dickinson*, 2012 U.S. Dist. LEXIS
24 4449, 2012 WL 113799, at *1 (E.D. Cal. Jan. 13, 2012); *Mitchell v. Felker*,
25 2010 U.S. Dist. LEXIS 107776, 2010 WL 3835765, at *2 (E.D. Cal. Sep. 29,
26 2010); *Ellis v. Cambra*, 2008 U.S. Dist. LEXIS 109050, 2008 WL 860523, at
27 *4 (E.D. Cal. Mar. 27, 2008). This requires the moving party to inform the
28 court which discovery requests are the subject of the motion to compel, and,

1 for each disputed response, why the information sought is relevant and why
2 the responding party's objections are not meritorious. *Grabek*, 2012 U.S.
3 Dist. LEXIS 4449, 2012 WL 113799, at *1; *Womack v. Virga*, 2011 U.S. Dist.
4 LEXIS 146716, 2011 WL 6703958, at *3 (E.D. Cal. Dec. 21, 2011).

5 The court must limit discovery if the burden of the proposed discovery
6 outweighs its likely benefit. *Fed. R. Civ. P. 26(b)(2)(C)(iii)*. "In each instance
7 [of discovery], the determination whether . . . information is discoverable
8 because it is relevant to the claims or defenses depends on the
9 circumstances of the pending action." Fed. R. Civ. P. 26 Advisory
10 Committee's note (2000 Amendment) (Gap Report) (Subdivision (b)(1)).

11 Moreover, request for production of documents "must describe with
12 reasonable particularity each item or category of items to be
13 inspected." (See Fed. R. Civ. P. 34(b)(1)(A).) . "All encompassing"
14 production requests do not meet Rule 34(b)(1)(A)'s reasonably particularity
15 requirement." (See *Mailhoit v. Home Depot U.S.A., Inc.*, 285 F.R.D. 566, 572
16 (C.D. Cal. 2012).) Notably the definitions of the terms "REFERRING" or
17 "RELATED TO" cause any request with such terms to be all encompassing,
18 hopelessly overbroad, and not reasonably particularized.

19 Failure to provide proper temporal or geographic locations can cause a
20 request to be overbroad as well. (See *Jackson v. Montgomery Ward & Co.*,
21 173 F.R.D. 524, 528 (D. Nev. 1997) (citing *McClain v. Mack Trucks, Inc.*, 85
22 F.R.D. 53, 62 (E.D.Pa.1979)).) This problem is present in many of the
23 requests made by plaintiffs.

24 Plaintiffs' broad recitation of supposed "facts" of this case have zero to
25 do with Mr. Blakeman, let alone the fact that no criminal conspiracy will ever
26 be supported by evidence here. To wit, plaintiffs cite an unintelligible and
27 ambiguous statement attributed to Mr. Lee—what exactly does this have to
28 do with Mr. Blakeman ? This is the same broad strokes mentality that

1 Plaintiffs' counsel brings to discovery in this case. Contrary to Plaintiffs'
2 asserted position in their meet and confer communications, the standard is
3 *not* whether production would result in *harm* to Mr. Blakeman, but whether
4 good cause exists for discovery and whether requests are overly broad and
5 burdensome, or proportional to the needs of the case.

6 Request No. 1 asked for all documents relating to "any plaintiff", i.e.,
7 Mr. Spencer or Ms. Reed. No other individual Plaintiffs have been named.
8 Defendant Blakeman identified four responsive videos and produced them to
9 plaintiffs. The fact that Mr. Blakeman has various videos taken at his leisure
10 of the surf at Lunada Bay does not "relate to any Plaintiff," as none are
11 depicted except in the videos already produced. Moreover, plaintiff cites
12 unpublished employment law and one published 42 U.S.C. 1983 case
13 pertaining to the "continuing violation doctrine" (which can extend the
14 statutes of limitation in employment cases) to argue that plaintiffs' discovery
15 in this case is not bound by any time parameters or by the three-year statute
16 that applies to Plaintiffs' claims. However, the present case is not an
17 employment discrimination or an eminent domain case and this argument is
18 wholly without merit. The "continuing violation doctrine" is solely a creature
19 of employment law statutes of limitation, and cannot be *ad hoc* applied
20 where no prior case law has ever done so, to a discovery dispute in the
21 novel class action theory being attempted in this action.

22 **DEMAND NO. 2:**

23 Any and all DOCUMENTS REFERRING or RELATED TO the incident
24 that occurred at Lunada Bay involving Defendant Alan Johnston and Plaintiff
25 Diana Milena Reed on February 13, 2016.

26 **Defendant's Response:**

27 Objection: This request is overly broad and calls for production of
28 information which is neither relevant nor reasonably calculated to lead to

1 discoverable evidence. Without waiving these objections, Defendant is in
2 possession of two videos responsive to this request which will be produced.

3 Plaintiffs' Argument:

4 The rules of discovery are to be broadly and liberally construed so as
5 to permit the discovery of any information which is relevant and is
6 reasonably calculated to lead to the discovery of admissible evidence. Fed.
7 R. Civ. P. 26(b)(2); *Hickman v. Taylor*, 329 U.S. 495, 507 (1947). Rule 26
8 has been broadly construed to "encompass any matter that bears on, or that
9 reasonably could lead to other matter that could bear on, any issue that is or
10 may be in the case." *Oppenheimer Fund, Inc. v. Sanders*, 437 U.S. 340,
11 351 (citing *Hickman*, 329 U.S. at 501).

12 Rule 34(b)(1)(A) of the Federal Rules of Civil Procedure requires a
13 request for production to describe an item "with reasonable particularity,"
14 which this request does. Plaintiffs' counsel has also agreed to narrow the
15 geographic scope of this request. (See **Exh. 1-o.**) Moreover, there are only
16 two individual named plaintiffs in this matter. Certainly, footage of either
17 plaintiff would be relevant to their allegations that, among other things,
18 Defendants photograph and video "outsiders" in an effort to intimidate and
19 harass them. Further, footage of the plaintiffs will help identify witnesses,
20 victims, and potential aggressors who have been involved with or affected
21 by the illegal conduct that has taken place at Lunada Bay.

22 Mr. Blakeman has in his possession many years' worth of valuable
23 footage of Lunada Bay, as he testified at his deposition. Indeed, as recently
24 as November 10, 2016, Plaintiffs' counsel witnessed Mr. Blakeman
25 recording video footage at the bluff above Lunada Bay. (**Decl. Otten, ¶ 7.**)

26 To date, Mr. Blakeman has only produced four short video clips which
27 were identified in his August 22, 2016 initial disclosures. Each of these clips
28 is less than 45 seconds long. This production represents a small fraction of

1 the footage of Lunada Bay that Mr. Blakeman admitted to recording over the
2 years. In fact, by Mr. Blakeman's own account, he was in the Rock Fort with
3 Ms. Reed for approximately 5 to 10 minutes on February 13, 2016, and
4 admits to filming much of that time. (See **Exh. 1-f.**) Thus, Mr. Blakeman has
5 likely failed to produce all responsive materials in his possession. The
6 production of this video footage and related photos is relevant to the
7 allegations of the instant lawsuit and is critical to Plaintiffs' impending motion
8 for class certification.

9 Finally, to the extent Mr. Blakeman seeks to limit any production of
10 responsive materials to the past 3 years, any such limitation would be
11 improper. The continuing violation doctrine allows courts to consider
12 allegations that occurred before the limitations period if such conduct is
13 "sufficiently related" to the conduct occurring within the limitations period, so
14 long as the incidents are not "isolated, sporadic, or discrete." *White v.*
15 *California Community Colleges*, 2008 WL 4793670 at *9 (C.D. Cal. Nov. 3,
16 2008). Indeed, a "continuing violation is occasioned by continual unlawful
17 acts, not by continual ill effects from an original violation." *Lopez v. City of*
18 *Santa Ana*, 2015 WL 5923539 at *1 (C.D. Cal. Oct. 8, 2015) (*quoting Ward*
19 *v. Caulk*, 650 F.2d 1144, 1147 (9th Cir. 1981)).

20 Here, Defendants' unlawful misconduct began in the 1970s and the
21 Defendants have been engaged in an ongoing criminal conspiracy since that
22 time. A 2011 email from Sang Lee to a number of individuals confirms as
23 much:

24 i [sic] might not have surfed here when u [sic] guys
25 were ruling the place in the 70's but my feelings n
26 [sic] love for our home runs DEEP INSIDE MY
HEART . . . i [sic] just want to keep our home the way
it should be kept (nice n [sic] clean with no takers)."

27 (**Exh. 1-I**, emphasis in original.) Given Defendants' ongoing unlawful
28 conspiracy, Plaintiffs' claims and allegations that predate any applicable

1 statute of limitations are therefore not time-barred. Indeed, the cumulative
2 violations and conspiratorial acts by the Lunada Bay Boys, including the
3 individual Defendants, over the past 40 years is the precise conduct that
4 precipitated this lawsuit.

5 Finally, even if certain incidents involving Defendants' criminal conduct
6 is time-barred, evidence of such incidents would nonetheless be relevant "to
7 establish motive and to put [Plaintiffs'] timely-filed claims in context."

8 *Carpinteria Valley Farms, Ltd. v. County of Santa Barbara*, 344 F.3d 822,
9 829 (9th Cir. 2003). Video footage and photographs of Lunada Bay dating
10 back to the 1970s is therefore relevant to Plaintiffs' claims in this suit and is
11 similarly discoverable.

12 Defendant's Argument:

13 Defendant Blakeman has previously identified and produced the
14 videos responsive to this very specific request, which related *solely* to the
15 date of February 13, 2016. Yet Plaintiffs argue that this request somehow
16 calls for Mr. Blakeman to produce videos dating back 40 years. (Apparently,
17 plaintiff's counsel failed to review their own request before re-pasting their
18 identical argument).

19
20 **DEMAND NO.8:**

21 Any and all DOCUMENTS REFERRING or RELATED TO the ROCK
22 FORT.

23 Defendant's Response:

24 Objection: This request is overly broad and calls for production of
25 information which is neither relevant nor reasonably calculated to lead to
26 discoverable evidence. Without waiving these objections, after a reasonable
27 search and diligent inquiry, Defendant is not in possession of any
28 documents responsive to this request.

1 Plaintiffs' Argument:

2 The rules of discovery are to be broadly and liberally construed so as
3 to permit the discovery of any information which is relevant and is
4 reasonably calculated to lead to the discovery of admissible evidence. Fed.
5 R. Civ. P. 26(b)(2); *Hickman v. Taylor*, 329 U.S. 495, 507 (1947). Rule 26
6 has been broadly construed to "encompass any matter that bears on, or that
7 reasonably could lead to other matter that could bear on, any issue that is or
8 may be in the case." *Oppenheimer Fund, Inc. v. Sanders*, 437 U.S. 340,
9 351 (citing *Hickman*, 329 U.S. at 501).

10 Rule 34(b)(1)(A) of the Federal Rules of Civil Procedure requires a
11 request for production to describe an item "with reasonable particularity,"
12 which this request does. Plaintiffs' counsel has also agreed to narrow the
13 geographic scope of this request. (See **Exh. 1-o.**)

14 Further, this request seeks documents, including videos and
15 photograms, that are both relevant and reasonably calculated to lead to
16 discoverable evidence. Photos and video footage of the Rock Fort (defined
17 in Plaintiff's Requests for Production as "the unpermitted masonry-rock-and-
18 wood structure and seating area on the northern end of Lunada Bay", (see
19 **Exh. 1-c**) will help identify witnesses, victims, and potential aggressors who
20 have been involved with or affected by the illegal conduct that has taken
21 place at Lunada Bay. Additionally, Mr. Blakeman has been accused of
22 using his camera to intimidate visitors at Lunada Bay near the Rock Fort,
23 including Plaintiff Reed, by filming them. Thus, such photos and video
24 footage is highly relevant to establish these allegations.

25 Additionally, Mr. Blakeman's response that he is not in possession of
26 any responsive documents is inconsistent with his deposition testimony. He
27 testified that he has at least four years' worth of valuable footage of Lunada
28 Bay. (**Exh. 1-f.**) Indeed, as recently as November 10, 2016, Plaintiffs'

1 counsel witnessed Mr. Blakeman recording video footage at the bluff above
2 Lunada Bay. (**Decl. Otten, ¶ 7.**) It is difficult to believe that none of his
3 estimated 10 memory cards filled with Lunada Bay footage contains any
4 images of the Rock Fort, which is located on the beach at Lunada Bay. This
5 is particularly true since, following his responses to this request, he
6 produced 4 short videos containing footage of the Rock Fort. (**Exh. 1-i.**)

7 Further, to the extent Mr. Blakeman seeks to limit any production of
8 responsive materials to the past 3 years, any such limitation would be
9 improper. The continuing violation doctrine allows courts to consider
10 allegations that occurred before the limitations period if such conduct is
11 "sufficiently related" to the conduct occurring within the limitations period, so
12 long as the incidents are not "isolated, sporadic, or discrete." *White v.*
13 *California Community Colleges*, 2008 WL 4793670 at *9 (C.D. Cal. Nov. 3,
14 2008). Indeed, a "continuing violation is occasioned by continual unlawful
15 acts, not by continual ill effects from an original violation." *Lopez v. City of*
16 *Santa Ana*, 2015 WL 5923539 at *1 (C.D. Cal. Oct. 8, 2015) (*quoting Ward*
17 *v. Caulk*, 650 F.2d 1144, 1147 (9th Cir. 1981)).

18 Here, Defendants' unlawful misconduct began in the 1970s and the
19 Defendants have been engaged in an ongoing criminal conspiracy since that
20 time. A 2011 email from Sang Lee to a number of individuals confirms as
21 much:

22 i [sic] might not have surfed here when u [sic] guys
23 were ruling the place in the 70's but my feelings n
24 [sic] love for our home runs DEEP INSIDE MY
HEART . . . i [sic] just want to keep our home the way
it should be kept (nice n [sic] clean with no takers)."

25 (**Exh. 1-I**, emphasis in original.) Given Defendants' ongoing unlawful
26 cumulative violations and conspiratorial acts by the Lunada Bay Boys,
27 including the individual Defendants, over the past 40 years is the precise
28 conduct that precipitated this lawsuit.

1 Finally, even if certain incidents involving Defendants' criminal conduct
2 is time-barred, evidence of such incidents would nonetheless be relevant "to
3 establish motive and to put [Plaintiffs'] timely-filed claims in context."

4 *Carpinteria Valley Farms, Ltd. v. County of Santa Barbara*, 344 F.3d 822,
5 829 (9th Cir. 2003). Video footage and photographs of Lunada Bay dating
6 back to the 1970s is therefore relevant to Plaintiffs' claims in this suit and is
7 similarly discoverable.

8 Defendant's Argument:

9 Defendant Blakeman responded in a code-compliant fashion—he has
10 no responsive documents or videos not previously identified and produced.
11 Apparently Plaintiff's counsel simply does not believe this response. Again,
12 Plaintiffs' counsel simply re-pastes the identical, non-specific argument to
13 this request, which requested documents relating to the "rock fort."
14 Moreover, the so-called "rock fort" is no longer relevant to this lawsuit, since
15 the Court previously dismissed Plaintiffs' claim for violation of the Coastal
16 Act, which was the only claim relating to the "rock fort".

17
18 DEMAND NO. 9:

19 Any and all DOCUMENTS REFERRING or RELATED TO efforts to
20 keep people from surfing Lunada Bay.

21 Defendant's Response:

22 Objection: This request is overly broad. Without waiving these
23 objections, after a reasonable search and diligent inquiry, Defendant is not in
24 possession of any documents responsive to this request.

25 Plaintiffs' Argument:

26 The rules of discovery are to be broadly and liberally construed so as
27 to permit the discovery of any information which is relevant and is
28 reasonably calculated to lead to the discovery of admissible evidence. Fed.

1 R. Civ. P. 26(b)(2); *Hickman v. Taylor*, 329 U.S. 495, 507 (1947). Rule 26
2 has been broadly construed to "encompass any matter that bears on, or that
3 reasonably could lead to other matter that could bear on, any issue that is or
4 may be in the case." *Oppenheimer Fund, Inc. v. Sanders*, 437 U.S. 340,
5 351 (citing *Hickman*, 329 U.S. at 501).

6 Rule 34(b)(1)(A) of the Federal Rules of Civil Procedure requires a
7 request for production to describe an item "with reasonable particularity,"
8 which this request does. Plaintiffs' counsel has also agreed to narrow the
9 geographic scope of this request. (See **Exh. 1-o.**)

10 Further, this request seeks documents, including videos and
11 photograms, that are both relevant and reasonably calculated to lead to
12 discoverable evidence. Photos and video footage of excluding others from
13 surfing at Lunada Bay will help identify witnesses, victims, and potential
14 aggressors who have been involved with or affected by the illegal conduct
15 that has taken place at Lunada Bay. Additionally, Mr. Blakeman has been
16 accused of using his camera to intimidate visitors at Lunada Bay in an effort
17 to prevent them from surfing. Thus, such photos and video footage is highly
18 relevant to establish these allegations.

19 Additionally, Mr. Blakeman's response that he is not in possession of
20 any responsive documents is inconsistent with his deposition testimony. He
21 testified that he has at least four years' worth of valuable footage of Lunada
22 Bay. (**Exh. 1-f.**) Indeed, as recently as November 10, 2016, Plaintiffs'
23 counsel witnessed Mr. Blakeman recording video footage at the bluff above
24 Lunada Bay. (**Decl. Otten, ¶ 7.**) It is difficult to believe that none of his
25 estimated 10 memory cards filled with Lunada Bay footage contains any
26 images of his efforts to exclude outsiders from surfing at Lunada Bay,
27 particularly because his act of filming people is intended to intimidate them
28 and make them uncomfortable so that they leave. Indeed, his filming of

1 Plaintiff Reed had that same intended effect. (**Exh. 1-e.**)

2 Further, to the extent Mr. Blakeman seeks to limit any production of
3 responsive materials to the past 3 years, any such limitation would be
4 improper. The continuing violation doctrine allows courts to consider
5 allegations that occurred before the limitations period if such conduct is
6 "sufficiently related" to the conduct occurring within the limitations period, so
7 long as the incidents are not "isolated, sporadic, or discrete." *White v.*
8 *California Community Colleges*, 2008 WL 4793670 at *9 (C.D. Cal. Nov. 3,
9 2008). Indeed, a "continuing violation is occasioned by continual unlawful
10 acts, not by continual ill effects from an original violation." *Lopez v. City of*
11 *Santa Ana*, 2015 WL 5923539 at *1 (C.D. Cal. Oct. 8, 2015) (*quoting Ward*
12 *v. Caulk*, 650 F.2d 1144, 1147 (9th Cir. 1981)).

13 Here, Defendants' unlawful misconduct began in the 1970s and the
14 Defendants have been engaged in an ongoing criminal conspiracy since that
15 time. A 2011 email from Sang Lee to a number of individuals confirms as
16 much:

17 i [sic] might not have surfed here when u [sic] guys
18 were ruling the place in the 70's but my feelings n
19 [sic] love for our home runs DEEP INSIDE MY
HEART . . . i [sic] just want to keep our home the way
it should be kept (nice n [sic] clean with no takers)."

20 (**Exh. 1-I**, emphasis in original.) Given Defendants' ongoing unlawful
21 conspiracy, Plaintiffs' claims and allegations that predate any applicable
22 statute of limitations are therefore not time-barred. Indeed, the cumulative
23 violations and conspiratorial acts by the Lunada Bay Boys, including the
24 individual Defendants, over the past 40 years is the precise conduct that
25 precipitated this lawsuit.

26 Finally, even if certain incidents involving Defendants' criminal conduct
27 is time-barred, evidence of such incidents would nonetheless be relevant "to
28 establish motive and to put [Plaintiffs'] timely-filed claims in context."

1 *Carpinteria Valley Farms, Ltd. v. County of Santa Barbara*, 344 F.3d 822,
2 829 (9th Cir. 2003). Video footage and photographs of Lunada Bay dating
3 back to the 1970s is therefore relevant to Plaintiffs' claims in this suit and is
4 similarly discoverable.

5 Defendant's Argument:

6 This request sought any documents that reference efforts to keep
7 people from surfing at Lunada Bay. Defendant Blakeman responded in a
8 code-compliant fashion—he has no responsive documents or videos to this
9 request. Apparently Plaintiff's counsel simply does not believe this
10 response. Again, Plaintiffs' counsel simply re-pastes the identical, non-
11 specific argument to this request. Contrary to plaintiffs' repeated argument,
12 any surf videos ever taken of the bay by Mr. Blakeman over the years are
13 not responsive to this specific request—only those which purport to show
14 someone or some thing making an effort to prevent people from surfing at
15 Lunada Bay—no amount of motions to compel can create a document that
16 has never existed—at least in Mr. Blakeman's possession.

17
18 DEMAND NO. 12:

19 Any and all photos of Lunada Bay.

20 Defendant's Response:

21 Objection: This request is overly broad and calls for production of
22 information which is neither relevant nor reasonably calculated to lead to
23 discoverable evidence.

24 Plaintiffs' Argument:

25 The rules of discovery are to be broadly and liberally construed so as
26 to permit the discovery of any information which is relevant and is
27 reasonably calculated to lead to the discovery of admissible evidence. Fed.
28 R. Civ. P. 26(b)(2); *Hickman v. Taylor*, 329 U.S. 495, 507 (1947). Rule 26

1 has been broadly construed to "encompass any matter that bears on, or that
2 reasonably could lead to other matter that could bear on, any issue that is or
3 may be in the case." *Oppenheimer Fund, Inc. v. Sanders*, 437 U.S. 340,
4 351 (citing *Hickman*, 329 U.S. at 501).

5 Rule 34(b)(1)(A) of the Federal Rules of Civil Procedure requires a
6 request for production to describe an item "with reasonable particularity,"
7 which this request does. Plaintiffs' counsel has also agreed to narrow the
8 geographic scope of this request. (See **Exh. 1-o**.)

9 Further, this request seeks documents that are both relevant and
10 reasonably calculated to lead to discoverable evidence. Photos of Lunada
11 Bay will help identify witnesses, victims, and potential aggressors who have
12 been involved with or affected by the illegal conduct that has taken place at
13 Lunada Bay. Additionally, Mr. Blakeman has been accused of using his
14 camera to intimidate visitors at Lunada Bay, including Plaintiff Reed, by
15 filming them. It is possible that he has taken photographs with this or other
16 cameras as part of his intimidation tactics. Even photos of the surf, beach,
17 and/or bluffs is relevant insofar as it may show the Rock Fort, changes
18 thereto, and/or storage of personal items and/or items in the water or on the
19 beach. These images may implicate one of the Defendants or corroborate
20 the claims of a victim or witness of the illegal conduct at Lunada Bay.
21 Finally, photos of the waves at Lunada Bay without surfers also supports
22 Plaintiffs' claims that the Lunada Bay Boys' intimidation tactics have
23 successfully excluded non-locals from surfing there, despite its excellent
24 surfing conditions. Thus, such photos are highly relevant to establish the
25 allegations in Plaintiffs' Complaint.

26 Mr. Blakeman has in his possession many years' worth of valuable
27 footage (as he testified at his deposition), and likely also has photographs of
28 Lunada Bay. Indeed, as recently as November 10, 2016, Plaintiffs' counsel

1 witnessed Mr. Blakeman recording video footage at the bluff above Lunada
2 Bay. (**Decl. Otten, ¶ 7.**)

3 Further, to the extent Mr. Blakeman seeks to limit any production of
4 responsive materials to the past 3 years, any such limitation would be
5 improper. The continuing violation doctrine allows courts to consider
6 allegations that occurred before the limitations period if such conduct is
7 "sufficiently related" to the conduct occurring within the limitations period, so
8 long as the incidents are not "isolated, sporadic, or discrete." *White v.*
9 *California Community Colleges*, 2008 WL 4793670 at *9 (C.D. Cal. Nov. 3,
10 2008). Indeed, a "'continuing violation is occasioned by continual unlawful
11 acts, not by continual ill effects from an original violation.'" *Lopez v. City of*
12 *Santa Ana*, 2015 WL 5923539 at *1 (C.D. Cal. Oct. 8, 2015) (*quoting Ward*
13 *v. Caulk*, 650 F.2d 1144, 1147 (9th Cir. 1981)).

14 Here, Defendants' unlawful misconduct began in the 1970s and the
15 Defendants have been engaged in an ongoing criminal conspiracy since that
16 time. A 2011 email from Sang Lee to a number of individuals confirms as
17 much:

18 i [sic] might not have surfed here when u [sic] guys
19 were ruling the place in the 70's but my feelings n
[sic] love for our home runs DEEP INSIDE MY
20 HEART . . . i [sic] just want to keep our home the way
it should be kept (nice n [sic] clean with no takers)."

21 (**Exh. 1-I**, emphasis in original.) Given Defendants' ongoing unlawful
22 conspiracy, Plaintiffs' claims and allegations that predate any applicable
23 statute of limitations are therefore not time-barred. Indeed, the cumulative
24 violations and conspiratorial acts by the Lunada Bay Boys, including the
25 individual Defendants, over the past 40 years is the precise conduct that
26 precipitated this lawsuit.

27 Finally, even if certain incidents involving Defendants' criminal conduct
28 is time-barred, evidence of such incidents would nonetheless be relevant "to

1 establish motive and to put [Plaintiffs'] timely-filed claims in context."

2 *Carpinteria Valley Farms, Ltd. v. County of Santa Barbara*, 344 F.3d 822,
3 829 (9th Cir. 2003). Video footage and photographs of Lunada Bay dating
4 back to the 1970s is therefore relevant to Plaintiffs' claims in this suit and is
5 similarly discoverable.

6 Defendant's Argument:

7 As set forth in defense counsel's extensive meet-and-confer emails to
8 plaintiffs' counsel, this request is vastly overbroad, unlimited as to subject
9 matter, time or geography. (See Exhibit 2, emails from Robert Cooper to
10 Samantha Wolfe dated through December 14, 2016) Mr. Blakeman's
11 personal photos and videos should be produced only to the extent they are
12 germane to issues, people and time-frames relating to plaintiffs' allegations
13 in this case—not solely because they depict "Lunada Bay." Defendant is not
14 under any legal obligation to re-write plaintiff's overbroad requests to narrow
15 them so that they are not objectionable, but counsel essentially did so by
16 offering on behalf of Blakeman to produce videos of the bay itself, (the
17 shoreline ocean and bluffs area of Lunada Bay), not the neighborhood itself,
18 dating back three years. Plaintiffs' counsel flatly refused this request.

19
20 DEMAND NO. 13:

21 Any and all videos of Lunada Bay.

22 Defendant's Response:

23 Objection: This request is overly broad and calls for production of
24 information which is neither relevant nor reasonably calculated to lead to
25 discoverable evidence.

26 Plaintiffs' Argument:

27 The rules of discovery are to be broadly and liberally construed so as
28 to permit the discovery of any information which is relevant and is

1 reasonably calculated to lead to the discovery of admissible evidence. Fed.
2 R. Civ. P. 26(b)(2); *Hickman v. Taylor*, 329 U.S. 495, 507 (1947). Rule 26
3 has been broadly construed to "encompass any matter that bears on, or that
4 reasonably could lead to other matter that could bear on, any issue that is or
5 may be in the case." *Oppenheimer Fund, Inc. v. Sanders*, 437 U.S. 340,
6 351 (citing *Hickman*, 329 U.S. at 501).

7 Rule 34(b)(1)(A) of the Federal Rules of Civil Procedure requires a
8 request for production to describe an item "with reasonable particularity,"
9 which this request does. Plaintiffs' counsel has also agreed to narrow the
10 geographic scope of this request. (See **Exh. 1-o.**)

11 Further, this request seeks documents that are both relevant and
12 reasonably calculated to lead to discoverable evidence. Video footage of
13 Lunada Bay will help identify witnesses, victims, and potential aggressors
14 who have been involved with or affected by the illegal conduct that has
15 taken place at Lunada Bay. Additionally, Mr. Blakeman has been accused
16 of using his camera to intimidate visitors at Lunada Bay, including Plaintiff
17 Reed, by filming them. Even video footage of the surf, beach, and/or bluffs
18 is relevant insofar as it may show the Rock Fort, changes thereto, and/or
19 storage of personal items and/or items in the water or on the beach. This
20 video footage may implicate one of the Defendants or corroborate the claims
21 of a victim or witness of illegal conduct at Lunada Bay. Finally, videos of the
22 waves at Lunada Bay without surfers also supports Plaintiffs' claims that the
23 Lunada Bay Boys' intimidation tactics have successfully excluded non-locals
24 from surfing there, despite its excellent surfing conditions. Thus, such video
25 footage is highly relevant to establish the allegations in Plaintiffs' Complaint.

26 Mr. Blakeman has in his possession many years' worth of valuable
27 video footage of Lunada Bay, as he testified in his deposition. Indeed, as
28 recently as November 10, 2016, Plaintiffs' counsel witnessed Mr. Blakeman

1 recording video footage at the bluff above Lunada Bay. (**Decl. Otten, ¶ 7.**)

2 Further, to the extent Mr. Blakeman seeks to limit any production of
3 responsive materials to the past 3 years, any such limitation would be
4 improper. The continuing violation doctrine allows courts to consider
5 allegations that occurred before the limitations period if such conduct is
6 "sufficiently related" to the conduct occurring within the limitations period, so
7 long as the incidents are not "isolated, sporadic, or discrete." *White v.*
8 *California Community Colleges*, 2008 WL 4793670 at *9 (C.D. Cal. Nov. 3,
9 2008). Indeed, a "continuing violation is occasioned by continual unlawful
10 acts, not by continual ill effects from an original violation." *Lopez v. City of*
11 *Santa Ana*, 2015 WL 5923539 at *1 (C.D. Cal. Oct. 8, 2015) (*quoting Ward*
12 *v. Caulk*, 650 F.2d 1144, 1147 (9th Cir. 1981)).

13 Here, Defendants' unlawful misconduct began in the 1970s and the
14 Defendants have been engaged in an ongoing criminal conspiracy since that
15 time. A 2011 email from Sang Lee to a number of individuals confirms as
16 much:

17 i [sic] might not have surfed here when u [sic] guys
18 were ruling the place in the 70's but my feelings n
19 [sic] love for our home runs DEEP INSIDE MY
HEART . . . i [sic] just want to keep our home the way
it should be kept (nice n [sic] clean with no takers)."

20 (**Exh. 1-I**, emphasis in original.) Given Defendants' ongoing unlawful
21 conspiracy, Plaintiffs' claims and allegations that predate any applicable
22 statute of limitations are therefore not time-barred. Indeed, the cumulative
23 violations and conspiratorial acts by the Lunada Bay Boys, including the
24 individual Defendants, over the past 40 years is the precise conduct that
25 precipitated this lawsuit.

26 Finally, even if certain incidents involving Defendants' criminal conduct
27 is time-barred, evidence of such incidents would nonetheless be relevant "to
28 establish motive and to put [Plaintiffs'] timely-filed claims in context."

1 *Carpinteria Valley Farms, Ltd. v. County of Santa Barbara*, 344 F.3d 822,
2 829 (9th Cir. 2003). Video footage and photographs of Lunada Bay dating
3 back to the 1970s is therefore relevant to Plaintiffs' claims in this suit and is
4 similarly discoverable.

5 Defendant's Argument:

6 As set forth in defense counsel's extensive meet-and-confer emails to
7 plaintiffs' counsel, this request is vastly overbroad, unlimited as to subject
8 matter, time or geography. (See Exhibit 2, emails from Robert Cooper to
9 Samantha Wolfe dated through December 14, 2016) Mr. Blakeman's
10 personal videos should be produced only to the extent they are germane to
11 issues, people and time-frames relating to plaintiffs' allegations in this
12 case—not solely because they depict "Lunada Bay." Defendant is not under
13 any legal obligation to re-write plaintiff's overbroad requests to narrow them
14 so that they are not objectionable. To avoid burdening the court with this
15 meritless motion, Defendant's counsel essentially offered, on behalf of
16 Blakeman, to produce videos of the bay itself, (the shoreline ocean and
17 bluffs area of Lunada Bay), not the neighborhood itself, dating back three
18 years. Of course, true to their apparent practice of permanent non-
19 cooperation, Plaintiffs' counsel flatly refused this request,

20 Plaintiffs argue that videos of criminal acts would be relevant—a broad
21 truism-- but that is not what is requested. Nor is the act of filming the surf
22 itself a tortious act as plaintiffs argue—Mr. Blakeman has never intimidated
23 anyone contrary to the slanderous claim casually repeated by plaintiffs'
24 counsel. Conversely, plaintiffs have admittedly sent photographers in a
25 sting operation with the local police in an unsuccessful attempt to entrap
26 anyone they could into responding to Plaintiffs' *agents provocateur*
27 purposely belligerent and provocative conduct.

1 **DEMAND NO. 39:**

2 Any and all photos of people surfing Lunada Bay.

3 **Defendant's Response:**

4 Objection: This request is overly broad and calls for production of
5 information which is neither relevant nor reasonably calculated to lead to
6 discoverable evidence.

7 **Plaintiffs' Argument:**

8 The rules of discovery are to be broadly and liberally construed so as
9 to permit the discovery of any information which is relevant and is
10 reasonably calculated to lead to the discovery of admissible evidence. Fed.
11 R. Civ. P. 26(b)(2); *Hickman v. Taylor*, 329 U.S. 495, 507 (1947). Rule 26
12 has been broadly construed to "encompass any matter that bears on, or that
13 reasonably could lead to other matter that could bear on, any issue that is or
14 may be in the case." *Oppenheimer Fund, Inc. v. Sanders*, 437 U.S. 340,
15 351 (citing *Hickman*, 329 U.S. at 501).

16 Rule 34(b)(1)(A) of the Federal Rules of Civil Procedure requires a
17 request for production to describe an item "with reasonable particularity,"
18 which this request does. Plaintiffs' counsel has also agreed to narrow the
19 geographic scope of this request. (See **Exh. 1-o.**)

20 Further, this request seeks documents that are both relevant and
21 reasonably calculated to lead to discoverable evidence. Photos of people
22 surfing Lunada Bay will help identify witnesses, victims, and potential
23 aggressors who have been involved with or affected by the illegal conduct
24 that has taken place at Lunada Bay. Additionally, Mr. Blakeman has been
25 accused of using his camera to intimidate visitors at Lunada Bay, including
26 Plaintiff Reed, by filming them. It is possible that he has taken photographs
27 with this or other cameras as part of his intimidation. Thus, such photos are
28 highly relevant to establish the allegations in Plaintiffs' Complaint.

1 Mr. Blakeman has in his possession many years' worth of valuable
2 footage (as he testified at his deposition), and likely also has photographs of
3 Lunada Bay. Indeed, as recently as November 10, 2016, Plaintiffs' counsel
4 witnessed Mr. Blakeman recording video footage at the bluff above Lunada
5 Bay. **(Decl. Otten, ¶ 7.)**

6 Further, to the extent Mr. Blakeman seeks to limit any production of
7 responsive materials to the past 3 years, any such limitation would be
8 improper. The continuing violation doctrine allows courts to consider
9 allegations that occurred before the limitations period if such conduct is
10 "sufficiently related" to the conduct occurring within the limitations period, so
11 long as the incidents are not "isolated, sporadic, or discrete." *White v.*
12 *California Community Colleges*, 2008 WL 4793670 at *9 (C.D. Cal. Nov. 3,
13 2008). Indeed, a "continuing violation is occasioned by continual unlawful
14 acts, not by continual ill effects from an original violation." *Lopez v. City of*
15 *Santa Ana*, 2015 WL 5923539 at *1 (C.D. Cal. Oct. 8, 2015) (*quoting Ward*
16 *v. Caulk*, 650 F.2d 1144, 1147 (9th Cir. 1981)).

17 Here, Defendants' unlawful misconduct began in the 1970s and the
18 Defendants have been engaged in an ongoing criminal conspiracy since that
19 time. A 2011 email from Sang Lee to a number of individuals confirms as
20 much:

21 i [sic] might not have surfed here when u [sic] guys
22 were ruling the place in the 70's but my feelings n
23 [sic] love for our home runs DEEP INSIDE MY
HEART . . . i [sic] just want to keep our home the way
it should be kept (nice n [sic] clean with no takers)."

24 **(Exh. 1-I, emphasis in original.)** Given Defendants' ongoing unlawful
25 conspiracy, Plaintiffs' claims and allegations that predate any applicable
26 statute of limitations are therefore not time-barred. Indeed, the cumulative
27 violations and conspiratorial acts by the Lunada Bay Boys, including the
28 individual Defendants, over the past 40 years is the precise conduct that

1 precipitated this lawsuit.

2 Finally, even if certain incidents involving Defendants' criminal conduct
3 is time-barred, evidence of such incidents would nonetheless be relevant "to
4 establish motive and to put [Plaintiffs'] timely-filed claims in context."
5 *Carpinteria Valley Farms, Ltd. v. County of Santa Barbara*, 344 F.3d 822,
6 829 (9th Cir. 2003). Video footage and photographs of Lunada Bay dating
7 back to the 1970s is therefore relevant to Plaintiffs' claims in this suit and is
8 similarly discoverable.

9 Defendant's Argument:

10 As set forth in defense counsel's extensive meet-and-confer emails to
11 plaintiffs' counsel, this request is vastly overbroad, unlimited as to time or
12 geography(See Exhibit 2, emails from Robert Cooper to Samantha Wolfe
13 dated through December 14, 2016) Mr. Blakeman's personal videos should
14 be produced only to the extent they are germane to issues, people and time-
15 frames relating to plaintiffs' allegations in this case—not solely because they
16 depict "people surfing Lunada Bay." Defendant is not under any legal
17 obligation to re-write plaintiff's overbroad requests to narrow them so that
18 they are not objectionable--, but counsel essentially did so by offering on
19 behalf of Blakeman to produce videos of the bay itself, (the shoreline ocean
20 and bluffs area of Lunada Bay), not the neighborhood itself, dating back
21 three years---plaintiffs' counsel flatly refused this request,

22 Plaintiff argues that videos of criminal acts would be relevant—yes, but
23 that is not what is requested. Nor is the act of filming the surf itself a tortious
24 act as plaintiffs argue—Mr. Blakeman has never intimidated anyone contrary
25 to the slanderous claim casually repeated by plaintiffs' counsel. Conversely,
26 plaintiffs have admittedly sent photographers in a sting operation with the
27 local police in an attempt to entrap anyone they could into responding to
28 purposely belligerent conduct.

1 **DEMAND NO. 40:**

2 Any and all videos of people surfing Lunada Bay.

3 **Defendant's Response:**

4 Objection: This request is overly broad and calls for production of
5 information which is neither relevant nor reasonably calculated to lead to
6 discoverable evidence.

7 **Plaintiffs' Argument:**

8 The rules of discovery are to be broadly and liberally construed so as
9 to permit the discovery of any information which is relevant and is
10 reasonably calculated to lead to the discovery of admissible evidence. Fed.
11 R. Civ. P. 26(b)(2); *Hickman v. Taylor*, 329 U.S. 495, 507 (1947). Rule 26
12 has been broadly construed to "encompass any matter that bears on, or that
13 reasonably could lead to other matter that could bear on, any issue that is or
14 may be in the case." *Oppenheimer Fund, Inc. v. Sanders*, 437 U.S. 340,
15 351 (citing *Hickman*, 329 U.S. at 501).

16 Rule 34(b)(1)(A) of the Federal Rules of Civil Procedure requires a
17 request for production to describe an item "with reasonable particularity,"
18 which this request does. Plaintiffs' counsel has also agreed to narrow the
19 geographic scope of this request. (See **Exh. 1-o.**)

20 Further, this request seeks documents that are both relevant and
21 reasonably calculated to lead to discoverable evidence. Video footage of
22 people surfing Lunada Bay will help identify witnesses, victims, and potential
23 aggressors who have been involved with or affected by the illegal conduct
24 that has taken place at Lunada Bay. Additionally, Mr. Blakeman has been
25 accused of using his camera to intimidate visitors at Lunada Bay, including
26 Plaintiff Reed, by filming them. Finally, videos of surfers at Lunada Bay that
27 depict a lack of non-local surfers further supports Plaintiffs' claims that the
28 Lunada Bay Boys' intimidation tactics have successfully excluded non-locals

1 from surfing there, despite its excellent surfing conditions. Thus, such video
2 footage is highly relevant to establish the allegations in Plaintiffs' Complaint.

3 Mr. Blakeman has in his possession many years' worth of valuable
4 footage of Lunada Bay, as he testified in his deposition. Indeed, as recently
5 as November 10, 2016, Plaintiffs' counsel witnessed Mr. Blakeman
6 recording video footage at the bluff above Lunada Bay. (**Decl. Otten, ¶ 7.**)

7 Further, to the extent Mr. Blakeman seeks to limit any production of
8 responsive materials to the past 3 years, any such limitation would be
9 improper. The continuing violation doctrine allows courts to consider
10 allegations that occurred before the limitations period if such conduct is
11 "sufficiently related" to the conduct occurring within the limitations period, so
12 long as the incidents are not "isolated, sporadic, or discrete." *White v.*
13 *California Community Colleges*, 2008 WL 4793670 at *9 (C.D. Cal. Nov. 3,
14 2008). Indeed, a "continuing violation is occasioned by continual unlawful
15 acts, not by continual ill effects from an original violation." *Lopez v. City of*
16 *Santa Ana*, 2015 WL 5923539 at *1 (C.D. Cal. Oct. 8, 2015) (*quoting Ward*
17 *v. Caulk*, 650 F.2d 1144, 1147 (9th Cir. 1981)).

18 Here, Defendants' unlawful misconduct began in the 1970s and the
19 Defendants have been engaged in an ongoing criminal conspiracy since that
20 time. A 2011 email from Sang Lee to a number of individuals confirms as
21 much:

22 i [sic] might not have surfed here when u [sic] guys
23 were ruling the place in the 70's but my feelings n
24 [sic] love for our home runs DEEP INSIDE MY
HEART . . . i [sic] just want to keep our home the way
it should be kept (nice n [sic] clean with no takers)."

25 (**Exh. 1-I**, emphasis in original.) Given Defendants' ongoing unlawful
26 conspiracy, Plaintiffs' claims and allegations that predate any applicable
27 statute of limitations are therefore not time-barred. Indeed, the cumulative
28 violations and conspiratorial acts by the Lunada Bay Boys, including the

1 individual Defendants, over the past 40 years is the precise conduct that
2 precipitated this lawsuit.

3 Finally, even if certain incidents involving Defendants' criminal conduct
4 is time-barred, evidence of such incidents would nonetheless be relevant "to
5 establish motive and to put [Plaintiffs'] timely-filed claims in context."

6 *Carpinteria Valley Farms, Ltd. v. County of Santa Barbara*, 344 F.3d 822,
7 829 (9th Cir. 2003). Video footage and photographs of Lunada Bay dating
8 back to the 1970s is therefore relevant to Plaintiffs' claims in this suit and is
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27 plaintiffs have admittedly sent photographers in a sting operation with the
28 local police in an attempt to entrap anyone they could into responding to

1 purposely belligerent conduct.

2
3 **III. REQUESTED RELIEF**

4 **A. Plaintiffs' Statement**

5 Plaintiffs requests that Defendant Blakeman be ordered to produce all
6 memory cards within his (or his counsel's) possession that may contain
7 videos or photos responsive to these requests within three (3) days following
8 this Court's decision. Any further delay in the production of this information
9 will detrimentally prejudice Plaintiffs' class certification motion.

10 Plaintiffs further request that this Court order Mr. Blakeman to pay
11 Plaintiffs' counsel's fees and costs incurred because of his refusal to
12 respond to Plaintiffs' document requests. There is no justification for his
13 failure to produce any documents in response to Plaintiff's requests,
14 particularly after acknowledging responsive information exists and even
15 offering to produce such information subject to certain conditions. Plaintiffs
16 also request that this Court order Mr. Blakeman to pay any costs incurred by
17 their IT vendor, Setec, in processing the memory cards.

18 **B. Defendant's Statement**

19 Plaintiffs' requested relief should be denied. Defendant in good faith
20 attempted to resolve this dispute despite the poorly drafted, over broad
21 requests, and requests to which defendant Blakeman has already fully
22 responded and produced what responsive videos he has, or indicated that
23 he does not possess responsive documents.

24 ///

1 DATED: January 4, 2017

HANSON BRIDGETT LLP

2
3
4 By: /s/ Kurt A. Franklin

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